

## Youth Access

### Age Restrictions on Sales of Tobacco Products (purchase or receipt of tobacco)

Minimum age for sales of cigarettes and smokeless tobacco: 18

KRS 438.311 (2000). Except for the provisions of KRS 438.330, it is unlawful for a person under age 18 to purchase or accept receipt of, or attempt to purchase or accept receipt of a tobacco product. It is also unlawful to present or offer to any person any purported proof of age, which is false, fraudulent or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It is not unlawful for a minor to accept receipt of a tobacco product from a family member, or from an employer when required in the performance of the person's duties.

Penalties to Minors: KRS 438.311 (2000). Violations shall be punishable by a fine of \$50 and 20 hours of community service work for a first offense within a one-year period, and a fine of \$200 and 40 hours of community service for a second or subsequent offense within a one-year period. This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the district court.

All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody for violation of this section. However, if a child fails to appear in court in response to a uniform citation issued under this section, the court may compel the attendance of the defendant in the manner specified by law.

Wholesalers, Retailers, or Manufacturers: KRS 438.313. It is unlawful for wholesalers, retailers or manufacturers of cigarette or tobacco products to distribute cigarettes or tobacco products, including samples, free or otherwise, to any person under age 18. Wholesalers, retailers or manufacturers of cigarette or tobacco products must require proof of age from any prospective buyer or recipient (in the case of free samples) if the person has reason to believe that the prospective purchaser or recipient is under the age of 18.

Penalties to Wholesalers, Retailers or Manufacturers: Any person who violates the provisions of this section shall be fined not less than \$1,000 or more than \$2,500 for each offense. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure for persons 18 years of age or older. For persons under the age of 18, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the district court.

All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody for violation of KRS 438.313 (2000).

Enforcement: KRS 438.330 (1996). The Department of Alcoholic Beverage Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors. The department may use minors in their compliance checks if the testing is conducted under the direct supervision of the department, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department of Alcoholic Beverage Control is entitled to the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent (\$0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes, and to keep 50 percent of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement. This law supersedes any subsequently enacted local law, ordinance, or regulation that relates to the use, display, sale, or distribution of tobacco products.

KRS 438.337 (2000). The Department of Alcoholic Beverage Control is responsible for maintaining and compiling statistics for required reports to be submitted to the U.S. Department of Health and Human Resources.

Sign posting requirement: KRS 438.310 (1996). Notice must be posted in a conspicuous place stating that it is illegal to sell tobacco products to persons under age 18. There is a fine of \$100 to \$500 for the first violation and \$500 to \$1,000 for subsequent violations.

Other provisions: KRS 438.325 (1996). All retail sales clerks must signify in writing that they understand that it is illegal under state law for persons to sell or distribute tobacco products to persons under 18 and for minors to purchase such products. The owner of the retail establishment shall keep the signed notice in a place that is easily accessible to persons conducting a compliance inspection. Any owner of a retail establishment who violates this provision is subject to a fine of \$10 to \$25 for each violation.